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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,772	08/04/2003	Elinor Isobel Forbes	MS-02/3/US	5121
7590	05/24/2006			
James C. Forbes 101 Pointe Drive, #403 Northbrook, IL 60062			EXAMINER HARRIS, CHANDA L	
			ART UNIT 3715	PAPER NUMBER

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,772

Applicant(s)

FORBES ET AL.

Examiner

Chanda L. Harris

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-23, 25, 32 and 38 is/are rejected.
- 7) ☒ Claim(s) 24, 26-31 and 33-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

In response to the Amendment filed 4/24/01, Claims 21-38 are pending. Claims 1-20 are cancelled.

### ***Terminal Disclaimer***

The terminal disclaimer filed on 5/16/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,626,678 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Allowable Subject Matter***

1. The indicated allowability of claims 25 and 32 is withdrawn in view of the newly discovered reference(s) to Sclan (US 5,082,446). Rejections based on the newly cited reference(s) follow.
2. Claims 24, 26-31, and 33-37 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 21-23, 25, 32, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al. (US 3,726,027) in view of Sclan et al. (US 5,082,446).**

1. [Claims 21]: Regarding Claims 21, Cohen discloses causing a subject to use a cognitive activity aid kit (i.e., a box shaped as a cuboctahedron, Col.2: 3-5) that comprises a plurality of pieces that have surface layers formed collectively of a plurality of soft fabrics (e.g., furry rug, a piece of sponge rubber, Col.3: 53-57) that are distinguishable by touch when handled by the subject (Col.3: 46-52); wherein said pieces are suitable for arrangement by the subject in a puzzle or game (Col.3: 46-52, Col.4: 19-26); said kit has means (i.e., adhesive tape, Col.2: 13-15) for engaging said pieces to other such pieces, wherein when so engaged the pieces resist accidental disarrangement; and said use provides a therapeutically beneficial cognitive challenge appropriate to the subject's mental acuity in Col.4: 5-9:

Thus, a child may be instructed to hold an outer face of a given color in a given position, and then to feel and describe the inner face corresponding to the selected color to form a word association between the color and the given texture.

Cohen does not disclose expressly a method involving an adult subject having a medically diagnosed dementia. However, Sclan teaches the concept of adapting infants' cognitive material for use by adult patients with severe dementia. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate adult subjects having a medically diagnosed dementia into Cohen's, invention, in light of the teaching of Sclan, in order to enable assessment for adults who have a normal but less developed stage of cognition.

2. [Claim 22]: Regarding Claim 22, Cohen discloses causing the subject to use said kit, wherein the kit has means (i.e., adhesive tape) for engaging the pieces to other such pieces. See Col.2: 13-15.

3. [Claim 23]: Regarding Claim 23, Cohen discloses causing the subject to use said kit, wherein said engaging means comprises an attaching means (i.e., adhesive tape) in an edge region of each of the pieces, the attaching means not requiring a high level of cognitive and/or manual dexterity. See Col.2: 13-19.

4. [Claim 25]: Regarding Claim 25, Cohen discloses causing the subject to use said kit, wherein the pieces are soft fabric patches, and wherein the kit comprises a plurality of said patches, each patch being attachable (i.e., via adhesive tape) along an edge thereof to one or more other patches to form a patchwork article. See Col. 2: 13-19 and Col.3: 43-48.

5. [Claim 38]: Regarding Claim 38, Cohen discloses causing the subject to use said kit, wherein said plurality of pieces have surface layers formed collectively of a plurality

of soft fabrics that are distinguishable by touch when handled by the subject. See Col.3: 48-52.

6. [Claim 32]: Regarding Claim 32, Cohen discloses causing the subject to use said kit, wherein each of said pieces has opposing layers formed of soft fabrics having differing tactility. See Col.3: 48-52.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. This action is made NON-FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

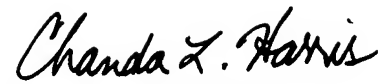
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink that reads "Chanda L. Harris". The signature is written in a cursive, flowing style.

Chanda L. Harris  
Primary Examiner  
Art Unit 3715